

2 **SHB 1257** - S COMM AMD  
3 By Committee on Ways & Means

4 ADOPTED 4/11/97

5 Strike everything after the enacting clause and insert the  
6 following:

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

8 (a) Thermal electric generation facilities play an important role  
9 in providing jobs for residents of the communities where such plants  
10 are located; and

11 (b) Taxes paid by thermal electric generation facilities help to  
12 support schools and local and state government operations.

13 (2) It is the intent of the legislature to assist thermal electric  
14 generation facilities placed in operation after December 31, 1969, and  
15 before July 1, 1975, to update their air pollution control equipment  
16 and abate pollution by extending certain tax exemptions and credits so  
17 that such plants may continue to play a long-term vital economic role  
18 in the communities where they are located.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08 RCW  
20 to read as follows:

21 (1) For the purposes of this section, "air pollution control  
22 facilities" mean any treatment works, control devices and disposal  
23 systems, machinery, equipment, structures, property, property  
24 improvements, and accessories, that are installed or acquired for the  
25 primary purpose of reducing, controlling, or disposing of industrial  
26 waste that, if released to the outdoor atmosphere, could cause air  
27 pollution, or that are required to meet regulatory requirements  
28 applicable to their construction, installation, or operation.

29 (2) The tax levied by RCW 82.08.020 does not apply to:

30 (a) Sales of tangible personal property to a light and power  
31 business, as defined in RCW 82.16.010, for construction or installation  
32 of air pollution control facilities at a thermal electric generation  
33 facility; or

1 (b) Sales of, cost of, or charges made for labor and services  
2 performed in respect to the construction or installation of air  
3 pollution control facilities.

4 (3) The exemption provided under this section applies only to  
5 sales, costs, or charges:

6 (a) Incurred for air pollution control facilities constructed or  
7 installed after the effective date of this act and used in a thermal  
8 electric generation facility placed in operation after December 31,  
9 1969, and before July 1, 1975;

10 (b) If the air pollution control facilities are constructed or  
11 installed to meet applicable regulatory requirements established under  
12 state or federal law, including the Washington clean air act, chapter  
13 70.94 RCW; and

14 (c) For which the purchaser provides the seller with an exemption  
15 certificate, signed by the purchaser or purchaser's agent, that  
16 includes a description of items or services for which payment is made,  
17 the amount of the payment, and such additional information as the  
18 department reasonably may require.

19 (4) This section does not apply to sales of tangible personal  
20 property purchased or to sales of, costs of, or charges made for labor  
21 and services used for maintenance or repairs of pollution control  
22 equipment.

23 (5) If production of electricity at a thermal electric generation  
24 facility for any calendar year after 2002 and before 2023 falls below  
25 a twenty percent annual capacity factor for the generation facility,  
26 all or a portion of the tax previously exempted under this section in  
27 respect to construction or installation of air pollution control  
28 facilities at the generation facility shall be due as follows:

29		Portion of previously
30	Year event occurs	exempted tax due
31	2003	100%
32	2004	95%
33	2005	90%
34	2006	85%
35	2007	80%
36	2008	75%
37	2009	70%
38	2010	65%
39	2011	60%

1	2012	55%
2	2013	50%
3	2014	45%
4	2015	40%
5	2016	35%
6	2017	30%
7	2018	25%
8	2019	20%
9	2020	15%
10	2021	10%
11	2022	5%
12	2023	0%

13 (6) Section 12 of this act applies to this section.

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12 RCW  
15 to read as follows:

16 (1) For the purposes of this section, "air pollution control  
17 facilities" mean any treatment works, control devices and disposal  
18 systems, machinery, equipment, structures, property, property  
19 improvements, and accessories, that are installed or acquired for the  
20 primary purpose of reducing, controlling, or disposing of industrial  
21 waste that, if released to the outdoor atmosphere, could cause air  
22 pollution, or that are required to meet regulatory requirements  
23 applicable to their construction, installation, or operation.

24 (2) The provisions of this chapter do not apply in respect to the  
25 use of air pollution control facilities installed and used by a light  
26 and power business, as defined in RCW 82.16.010, in generating electric  
27 power.

28 (3) The exemption provided under this section applies only to air  
29 pollution control facilities that are:

30 (a) Constructed or installed after the effective date of this act  
31 and used in a thermal electric generation facility placed in operation  
32 after December 31, 1969, and before July 1, 1975; and

33 (b) Constructed or installed to meet applicable regulatory  
34 requirements established under state or federal law, including the  
35 Washington clean air act, chapter 70.94 RCW.

36 (4) This section does not apply to the use of tangible personal  
37 property for maintenance or repairs of the pollution control equipment.

1 (5) If production of electricity at a thermal electric generation  
2 facility for any calendar year after 2002 and before 2023 falls below  
3 a twenty percent annual capacity factor for the generation facility,  
4 all or a portion of the tax previously exempted under this section in  
5 respect to construction or installation of air pollution control  
6 facilities at the generation facility shall be due according to the  
7 schedule provided in section 2(5) of this act.

8 (6) Section 12 of this act applies to this section.

9 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.08 RCW  
10 to read as follows:

11 (1) For the purposes of this section:

12 (a) "Air pollution control facilities" means any treatment works,  
13 control devices and disposal systems, machinery, equipment, structure,  
14 property, property improvements, and accessories, that are installed or  
15 acquired for the primary purpose of reducing, controlling, or disposing  
16 of industrial waste that, if released to the outdoor atmosphere, could  
17 cause air pollution, or that are required to meet regulatory  
18 requirements applicable to their construction, installation, or  
19 operation; and

20 (b) "Generation facility" means a coal-fired thermal electric  
21 generation facility placed in operation after December 3, 1969, and  
22 before July 1, 1975.

23 (2) Beginning January 1, 1999, the tax levied by RCW 82.08.020 does  
24 not apply to sales of coal used to generate electric power at a  
25 generation facility operated by a business if the following conditions  
26 are met:

27 (a) The owners must make an application to the department of  
28 revenue for a tax exemption;

29 (b) The owners must make a demonstration to the department of  
30 ecology that the owners have made reasonable initial progress to  
31 install air pollution control facilities to meet applicable regulatory  
32 requirements established under state or federal law, including the  
33 Washington clean air act, chapter 70.94 RCW;

34 (c) Continued progress must be made on the development of air  
35 pollution control facilities to meet the requirements of the permit;  
36 and

1 (d) The generation facility must emit no more than ten thousand  
2 tons of sulfur dioxide during a previous consecutive twelve-month  
3 period.

4 (3) During a consecutive twelve-month period, if the generation  
5 facility is found to be in violation of excessive sulfur dioxide  
6 emissions from a regional air pollution control authority or the  
7 department of ecology, the department of ecology shall notify the  
8 department of revenue and the owners of the generation facility shall  
9 lose their tax exemption under this section. The owners of a  
10 generation facility may reapply for the tax exemption when they have  
11 once again met the conditions of subsection (2)(d) of this section.

12 (4) Section 12 of this act applies to this section.

13 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.08 RCW  
14 to read as follows:

15 Any business that has received a tax exemption under section 4 of  
16 this act forfeits the exemption if, except for reasons or factors  
17 beyond the control of the owners or operator of the thermal electric  
18 generation facility, less than seventy percent of the coal consumed at  
19 the thermal electric generation facility during the previous calendar  
20 year was produced by a mine located in the same county as the facility  
21 or in a county contiguous to the county. The department of revenue may  
22 reinstate the exemption under section 4 of this act when the owners  
23 provide documentation that the seventy-percent requirement has been met  
24 during a subsequent calendar year. The definitions in section 4 of  
25 this act apply to this section.

26 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.12 RCW  
27 to read as follows:

28 (1) For the purposes of this section:

29 (a) "Air pollution control facilities" means any treatment works,  
30 control devices and disposal systems, machinery, equipment, structure,  
31 property, property improvements, and accessories, that are installed or  
32 acquired for the primary purpose of reducing, controlling, or disposing  
33 of industrial waste that, if released to the outdoor atmosphere, could  
34 cause air pollution, or that are required to meet regulatory  
35 requirements applicable to their construction, installation, or  
36 operation; and

1 (b) "Generation facility" means a coal-fired thermal electric  
2 generation facility placed in operation after December 3, 1969, and  
3 before July 1, 1975.

4 (2) Beginning January 1, 1999, the provisions of this chapter do  
5 not apply in respect to the use of coal to generate electric power at  
6 a generation facility operated by a business if the following  
7 conditions are met:

8 (a) The owners must make an application to the department of  
9 revenue for a tax exemption;

10 (b) The owners must make a demonstration to the department of  
11 ecology that the owners have made reasonable initial progress to  
12 install air pollution control facilities to meet applicable regulatory  
13 requirements established under state or federal law, including the  
14 Washington clean air act, chapter 70.94 RCW;

15 (c) Continued progress must be made on the development of air  
16 pollution control facilities to meet the requirements of the permit;  
17 and

18 (d) The generation facility must emit no more than ten thousand  
19 tons of sulfur dioxide during a previous consecutive twelve-month  
20 period.

21 (3) During a consecutive twelve-month period, if the generation  
22 facility is found to be in violation of excessive sulfur dioxide  
23 emissions from a regional air pollution control authority or the  
24 department of ecology, the department of ecology shall notify the  
25 department of revenue and the owners of the generation facility shall  
26 lose their tax exemption under this section. The owners of a  
27 generation facility may reapply for the tax exemption when they have  
28 once again met the conditions of subsection (2)(d) of this section.

29 (4) Section 12 of this act applies to this section.

30 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.12 RCW  
31 to read as follows:

32 Any business that has received a tax exemption under section 6 of  
33 this act forfeits the exemption if, except for reasons or factors  
34 beyond the control of the owners or operator of the thermal electric  
35 generation facility, less than seventy percent of the coal consumed at  
36 the thermal electric generation facility during the previous calendar  
37 year was produced by a mine located in the same county as the facility  
38 or in a county contiguous to the county. The department of revenue may

1 reinstate the exemption under section 6 of this act when the owners  
2 provide documentation that the seventy-percent requirement has been met  
3 during a subsequent calendar year. The definitions in section 6 of  
4 this act apply to this section.

5 **Sec. 8.** RCW 43.79A.040 and 1996 c 253 s 409 are each amended to  
6 read as follows:

7 (1) Money in the treasurer's trust fund may be deposited, invested  
8 and reinvested by the state treasurer in accordance with RCW 43.84.080  
9 in the same manner and to the same extent as if the money were in the  
10 state treasury.

11 (2) All income received from investment of the treasurer's trust  
12 fund shall be set aside in an account in the treasury trust fund to be  
13 known as the investment income account.

14 (3) The investment income account may be utilized for the payment  
15 of purchased banking services on behalf of treasurer's trust funds  
16 including, but not limited to, depository, safekeeping, and  
17 disbursement functions for the state treasurer or affected state  
18 agencies. The investment income account is subject in all respects to  
19 chapter 43.88 RCW, but no appropriation is required for payments to  
20 financial institutions. Payments shall occur prior to distribution of  
21 earnings set forth in subsection (4) of this section.

22 (4)(a) Monthly, the state treasurer shall distribute the earnings  
23 credited to the investment income account to the state general fund  
24 except under (b) and (c) of this subsection.

25 (b) The following accounts and funds shall receive their  
26 proportionate share of earnings based upon each account's or fund's  
27 average daily balance for the period: The agricultural local fund, the  
28 American Indian scholarship endowment fund, the Washington  
29 international exchange scholarship endowment fund, the energy account,  
30 the fair fund, the game farm alternative account, the grain inspection  
31 revolving fund, the rural rehabilitation account, ~~((and))~~ the self-  
32 insurance revolving fund, and the sulfur dioxide abatement account.  
33 However, the earnings to be distributed shall first be reduced by the  
34 allocation to the state treasurer's service fund pursuant to RCW  
35 43.08.190.

36 (c) The following accounts and funds shall receive eighty percent  
37 of their proportionate share of earnings based upon each account's or  
38 fund's average daily balance for the period: The advanced right of way

1 revolving fund, the federal narcotics asset forfeitures account, the  
2 high occupancy vehicle account, and the local rail service assistance  
3 account.

4 (5) In conformance with Article II, section 37 of the state  
5 Constitution, no trust accounts or funds shall be allocated earnings  
6 without the specific affirmative directive of this section.

7 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.32 RCW  
8 to read as follows:

9 An amount equal to all sales and use taxes paid under chapters  
10 82.08, 82.12, and 82.14 RCW, that were obtained from the sales of coal  
11 to, or use of coal by, a business for use at a generation facility, and  
12 that meet the requirements of section 10 of this act, shall be  
13 deposited in the sulfur dioxide abatement account under section 10 of  
14 this act.

15 NEW SECTION. **Sec. 10.** A new section is added to chapter 70.94 RCW  
16 to read as follows:

17 (1) The sulfur dioxide abatement account is created. All receipts  
18 from subsection (2) of this section must be deposited in the account.  
19 Expenditures in the account may be used only for the purposes of  
20 subsection (3) of this section. Only the director of revenue or the  
21 director's designee may authorize expenditures from the account. The  
22 account is subject to allotment procedures under chapter 43.88 RCW, but  
23 an appropriation is not required for expenditures.

24 (2) Upon application by the owners of a generation facility, the  
25 department of ecology shall make a determination of whether the owners  
26 are making initial progress in the construction of air pollution  
27 control facilities. Evidence of initial progress may include, but is  
28 not limited to, engineering work, agreements to proceed with  
29 construction, contracts to purchase, or contracts for construction of  
30 air pollution control facilities. However, if the owners' progress is  
31 impeded due to actions caused by regulatory delays or by defensive  
32 litigation, certification of initial progress may not be withheld.

33 Upon certification of initial progress by the department of ecology  
34 and after January 1, 1999, an amount equal to all sales and use taxes  
35 paid under chapters 82.08, 82.12, and 82.14 RCW, that were obtained  
36 from the sales of coal to, or use of coal by, a business for use at a



1 generation facility shall be deposited in the account under section 9  
2 of this act.

3 By June 1st of each year during construction of the air pollution  
4 control facilities and during the verification period required in  
5 sections 4(2)(d) and 6(2)(d) of this act, the department of ecology  
6 shall make an assessment regarding the continued progress of the  
7 pollution control facilities. Evidence of continued progress may  
8 include, but is not limited to, acquisition of construction material,  
9 visible progress on construction, or other actions that have occurred  
10 that would verify progress under general construction time tables. The  
11 treasurer shall continue to deposit an amount equal to the tax revenues  
12 to the sulfur dioxide abatement account unless the department of  
13 ecology fails to certify that reasonable progress has been made during  
14 the previous year. The operator of a generation facility shall file  
15 documentation accompanying its combined monthly excise tax return that  
16 identifies all sales and use tax payments made by the owners for coal  
17 used at the generation facility during the reporting period.

18 (3) When a generation facility emits no more than ten thousand tons  
19 of sulfur dioxide during a consecutive twelve-month period, the  
20 department of ecology shall certify this to the department of revenue  
21 and the state treasurer by the end of the following month. Within  
22 thirty days of receipt of certification under this subsection, the  
23 department of revenue shall approve the tax exemption application and  
24 the director or the director's designee shall authorize the release of  
25 any moneys in the sulfur dioxide abatement account to the operator of  
26 the generation facility. The operator shall disburse the payment among  
27 the owners of record according to the terms of their contractual  
28 agreement.

29 (4)(a) If the department of revenue has not approved a tax  
30 exemption under sections 4 and 6 of this act by March 1, 2005, any  
31 moneys in the sulfur dioxide abatement account shall be transferred to  
32 the general fund and the appropriate local governments in accordance  
33 with chapter 82.14 RCW, and the sulfur dioxide abatement account shall  
34 cease to exist after March 1, 2005.

35 (b) The dates in (a) of this subsection must be extended if the  
36 owners of a generation facility have experienced difficulties in  
37 complying with this section, or sections 4 through 7 and 9 of this act,  
38 due to actions caused by regulatory delays or by defensive litigation.

39 (5) For the purposes of this section:

1 (a) "Air pollution control facilities" means any treatment works,  
2 control devices and disposal systems, machinery, equipment, structure,  
3 property, property improvements and accessories, that are installed or  
4 acquired for the primary purpose of reducing, controlling, or disposing  
5 of industrial waste that, if released to the outdoor atmosphere, could  
6 cause air pollution, or that are required to meet regulatory  
7 requirements applicable to their construction, installation, or  
8 operation; and

9 (b) "Generation facility" means a coal-fired thermal electric  
10 generation facility placed in operation after December 3, 1969, and  
11 before July 1, 1975.

12 NEW SECTION. **Sec. 11.** A new section is added to chapter 84.36 RCW  
13 to read as follows:

14 (1) Air pollution control equipment constructed or installed after  
15 the effective date of this act, by businesses engaged in the generation  
16 of electric energy at thermal electric generation facilities first  
17 placed in operation after December 31, 1969, and before July 1, 1975,  
18 shall be exempt from property taxation. The owners shall maintain the  
19 records in such a manner that the annual beginning and ending asset  
20 balance of the pollution control facilities and depreciation method can  
21 be identified.

22 (2) For the purposes of this section, "air pollution control  
23 equipment" means any treatment works, control devices and disposal  
24 systems, machinery, equipment, structures, property, property  
25 improvements, and accessories, that are installed or acquired for the  
26 primary purpose of reducing, controlling, or disposing of industrial  
27 waste that, if released to the outdoor atmosphere, could cause air  
28 pollution, or that are required to meet regulatory requirements  
29 applicable to their construction, installation, or operation.

30 (3) Section 12 of this act applies to this section.

31 NEW SECTION. **Sec. 12.** A new section is added to chapter 82.32 RCW  
32 to read as follows:

33 If a business is allowed an exemption under section 2, 3, 4, 6, or  
34 11 of this act, and the business ceases operation of the facility for  
35 which the exemption is allowed, the business shall deposit into the  
36 displaced workers account established in section 13 of this act an  
37 amount equal to the fair market value of one-quarter of the total

1 sulfur dioxide allowances authorized by federal law available to the  
2 facility at the time of cessation of operation of the generation  
3 facility as if the allowances were sold for a period of ten years  
4 following the time of cessation of operation of the generation  
5 facility. This section expires December 31, 2015.

6 NEW SECTION. **Sec. 13.** A new section is added to chapter 50.12 RCW  
7 to read as follows:

8 The displaced workers account is established. All moneys from  
9 section 12 of this act must be deposited into the account. Moneys in  
10 the account may be spent only after appropriation. Expenditures from  
11 the account may be used only to provide for compensation and retraining  
12 of displaced workers of the thermal electric generation facility and of  
13 the coal mine that supplied coal to the facility. The benefits from  
14 the account are in addition to all other compensation and retraining  
15 benefits to which the displaced workers are entitled under existing  
16 state law. The employment security department shall administer the  
17 distribution of moneys from the account.

18 **Sec. 14.** RCW 80.04.130 and 1993 c 311 s 1 are each amended to read  
19 as follows:

20 (1) Whenever any public service company shall file with the  
21 commission any schedule, classification, rule or regulation, the effect  
22 of which is to change any rate, charge, rental or toll theretofore  
23 charged, the commission shall have power, either upon its own motion or  
24 upon complaint, upon notice, to enter upon a hearing concerning such  
25 proposed change and the reasonableness and justness thereof, and  
26 pending such hearing and the decision thereon the commission may  
27 suspend the operation of such rate, charge, rental or toll for a period  
28 not exceeding ten months from the time the same would otherwise go into  
29 effect, and after a full hearing the commission may make such order in  
30 reference thereto as would be provided in a hearing initiated after the  
31 same had become effective. The commission shall not suspend a tariff  
32 that makes a decrease in a rate, charge, rental, or toll filed by a  
33 telecommunications company pending investigation of the fairness,  
34 justness, and reasonableness of the decrease when the filing does not  
35 contain any offsetting increase to another rate, charge, rental, or  
36 toll and the filing company agrees to not file for an increase to any  
37 rate, charge, rental, or toll to recover the revenue deficit that

1 results from the decrease for a period of one year. The filing company  
2 shall file with any decrease sufficient information as the commission  
3 by rule may require to demonstrate the decreased rate, charge, rental,  
4 or toll is above the long run incremental cost of the service. A  
5 tariff decrease that results in a rate that is below long run  
6 incremental cost, or is contrary to commission rule or order, or the  
7 requirements of this chapter, shall be rejected for filing and returned  
8 to the company. The commission may prescribe a different rate to be  
9 effective on the prospective date stated in its final order after its  
10 investigation, if it concludes based on the record that the originally  
11 filed and effective rate is unjust, unfair, or unreasonable.

12 For the purposes of this section, tariffs for the following  
13 telecommunications services, that temporarily waive or reduce charges  
14 for existing or new subscribers for a period not to exceed sixty days  
15 in order to promote the use of the services shall be considered tariffs  
16 that decrease rates, charges, rentals, or tolls:

- 17 (a) Custom calling service;
- 18 (b) Second access lines; or
- 19 (c) Other services the commission specifies by rule.

20 The commission may suspend any promotional tariff other than those  
21 listed in (a) through (c) of this subsection.

22 The commission may suspend the initial tariff filing of any water  
23 company removed from and later subject to commission jurisdiction  
24 because of the number of customers or the average annual gross revenue  
25 per customer provisions of RCW 80.04.010. The commission may allow  
26 temporary rates during the suspension period. These rates shall not  
27 exceed the rates charged when the company was last regulated. Upon a  
28 showing of good cause by the company, the commission may establish a  
29 different level of temporary rates.

30 (2) At any hearing involving any change in any schedule,  
31 classification, rule or regulation the effect of which is to increase  
32 any rate, charge, rental or toll theretofore charged, the burden of  
33 proof to show that such increase is just and reasonable shall be upon  
34 the public service company.

35 (3) The implementation of mandatory local measured  
36 telecommunications service is a major policy change in available  
37 telecommunications service. The commission shall not accept for filing  
38 or approve, prior to June 1, 1998, a tariff filed by a  
39 telecommunications company which imposes mandatory local measured

1 service on any customer or class of customers, except that, upon  
2 finding that it is in the public interest, the commission may accept  
3 for filing and approve a tariff that imposes mandatory measured service  
4 for a telecommunications company's extended area service or foreign  
5 exchange service. This subsection does not apply to land, air, or  
6 marine mobile service, or to pay telephone service, or to any service  
7 which has been traditionally offered on a measured service basis.

8 (4) The implementation of Washington telephone assistance program  
9 service is a major policy change in available telecommunications  
10 service. The implementation of Washington telephone assistance program  
11 service will aid in achieving the stated goal of universal telephone  
12 service.

13 (5) If a utility claims a sales or use tax exemption on the  
14 pollution control equipment for an electrical generation facility and  
15 abandons the generation facility before the pollution control equipment  
16 is fully depreciated, any tariff filing for a rate increase to recover  
17 abandonment costs for the pollution control equipment shall be  
18 considered unjust and unreasonable for the purposes of this section.

19 NEW SECTION. Sec. 15. The department of revenue and the  
20 department of ecology may adopt rules to implement this act.

21 NEW SECTION. Sec. 16. If any provision of this act or its  
22 application to any person or circumstance is held invalid, the  
23 remainder of the act or the application of the provision to other  
24 persons or circumstances is not affected.

25 NEW SECTION. Sec. 17. This act is necessary for the immediate  
26 preservation of the public peace, health, or safety, or support of the  
27 state government and its existing public institutions, and takes effect  
28 immediately."

29 **SHB 1257** - S COMM AMD  
30 By Committee on Ways & Means

31 ADOPTED 4/11/97

32 On page 1, line 2 of the title, after "1975;" strike the remainder  
33 of the title and insert "amending RCW 43.79A.040 and 80.04.130; adding  
34 new sections to chapter 82.08 RCW; adding new sections to chapter 82.12

1 RCW; adding new sections to chapter 82.32 RCW; adding a new section to  
2 chapter 70.94 RCW; adding a new section to chapter 84.36 RCW; adding a  
3 new section to chapter 50.12 RCW; creating new sections; providing an  
4 expiration date; and declaring an emergency."

--- **END** ---